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California Environmental Protection Agency
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

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Permitting and Compliance Committee

Joe Serna Jr., CalEPA Building
1001 I Street, Coastal Hearing Room
Sacramento, CA 95814

Monday, May 11, 2009

1:30 p.m.

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APPEARANCES**COMMISSIONERS PRESENT**

John Laird

COMMITTEE MEMBERS PRESENT

Rosalie Mulé, Chair

Margo Reid Brown

Sheila Kuehl

STAFF PRESENT

Ted Rauh, Program Director

David Otsubo, Program Staff

Christie Karl, Program Staff

Sue Markie, Program Staff

Ken Decio, Program Staff

Darryl Petker, Program Staff

Lorraine Van Kekerix, Program Staff

Michael Bledsoe, Legal Staff

Elliot Block, Legal Staff

Marie Carter, Legal Staff

Holly Armstrong, Legal Staff

Donnell Dulco

Tracey Cottingim, Administrative Assistant

ALSO PRESENT

Mark De Bie, Permitting Group

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1 P R O C E E D I N G S

2 May 11, 2009

1:30 p.m.

3 Chair Mulé - Good afternoon, everyone. Welcome to
4 the May Meeting of the Permitting and Compliance Committee.
5 We have agendas on the back of the table and if you would
6 like to address our committee on any item we are hearing
7 today, please fill out a speaker's slip form, bring it up to
8 Donnell here, to my left, and you will have an opportunity
9 to address our committee.

10 Before we go any further, also, I would like to
11 ask everyone to please either turn off, or put on silent
12 mode, your cell phones, pagers, other electronic devices.
13 And with that, Donnell, will you please call the roll?

14 **Roll Call and Declaration of Quorum.**

15 Ms. Dulco - Brown - Here; Kuehl - Here; Chair Mulé
16 - Here.

17 Chair Mulé - And we do have Board Member Laird
18 with us. Thank you for being here, John. Good to have you
19 here. Any ex parte? Everybody is up to date, so with that,
20 let us move into our agenda.

21 **ITEM A. Program Director's Report**

22 Chair Mulé - Ted, do you have a Director's Report?

23 Mr. Rauh - Yes, I do -- a very brief one. Thank
24 you, Chair Mulé. Very quickly on emergency response debris
25 removal, a couple of things to report. We have been keeping

1 you up to date on efforts to take care of the Oakridge
2 Mobile Home Park. I am glad to say that is all cleaned up
3 at this point. The debris has been removed through a
4 consolidated debris removal program spearheaded by the City
5 of Los Angeles. It took a while to get started, but it has
6 been successfully taken care of. Also, with respect to the
7 wildfire burning in Santa Barbara County, we are not
8 actually actively engaged in that area, but we are providing
9 support to the County, the County is well trained,
10 unfortunately they have had a couple of these incidents
11 recently and also participated in a debris management
12 training, which we were one of the technical sponsors and,
13 fortunately, just a few weeks before this incident happened.
14 So at this point, it looks like they are getting the upper
15 hand of that fire and, to the extent that they need any
16 additional assistance from us, we are plugged in to provide
17 it.

18 I wanted to bring the committee up to speed on
19 fire storage standards associated with our tire storage
20 requirements. As a result of several activities, we have
21 been working with the State Fire Marshal very recently and,
22 as a result of that, found that the International Fire Code,
23 which California will adopt in segments over periods of
24 time, includes a new set of provisions dealing with tires
25 and related types of flammable materials; those standards

1 are very close to what the Board adopted several years ago
2 and I think rely on the type of scientific and engineering-
3 based analysis that the Board used in promulgating its
4 standards. We are working with the Fire Marshal now to
5 develop a document that they will send out to all the local
6 fire jurisdictions, advising them of their intention over
7 the next couple of years to put these standards into the
8 State Fire Code. It goes through the State Building
9 Standards Commission Process, so it takes about two years.
10 Our hope is that, in working in conjunction with them, we
11 will be able to utilize that memorandum to more consistently
12 see local government apply appropriate levels of fire
13 protection, at least in respect to these standards. And we
14 will be back to you in two months with an information item
15 for your consideration, as to how all of this plays in with
16 our standards, and what we recommend the Board do in the
17 succeeding year and a half between the time when these
18 standards are available and they actually become part of the
19 State Building Standards Code.

20 Also, I wanted to indicate that we are working
21 with CalEPA to bring into the Board a Comprehensive
22 Compliance Complaint Response System, this is a system that
23 is an electronic-based program that the Board's own
24 Information Office has put together for CalEPA, we have been
25 using it for the last six months or so, the idea of this

1 reporting system is that, when a complaint comes in, it may
2 result in either a criminal activity, or just some lesser
3 form of compliance or enforcement activity either by the
4 Board or LEAs, that it be tracked effectively through this
5 electronic means. And the system provides an opportunity
6 that, if there are relationships with other Boards or
7 Departments, that it can instantly route the same complaint
8 so that CalEPA, as a uniform body, responds. It has been a
9 priority of the Secretary's to put this in place and we will
10 be working over the next six months to more broadly
11 implement it throughout the Board's programs, and then also
12 be looking to see how, over time, we can encourage the LEAs
13 and TIRE EAs to do the same thing.

14 Finally, I wanted to just quickly give you a
15 status on the auto shredder waste effort. One of the
16 permits you will be hearing about today includes the
17 management of auto shredder waste. As you know, the
18 Department of Toxic Substance Control is heading toward a
19 decision point on whether to reassert a hazardous waste
20 category management for this particular material. The Board
21 and the Water Boards have been involved with them, Board
22 staff has been involved with DTSC and the results -- we do
23 not know yet exactly what their technical finding will be --
24 they laid out a decision date of January 30th to advise
25 industry. We are continuing to work with them in an -- did

1 I say January? Thank you, yes, thank you for that great key
2 -- it immediately got me back on track, it is June 30th of
3 this year that they will make a determination. And we have
4 been working with them and a working group of other states
5 at U.S. EPA to take a look at this issue from a national
6 perspective. The next meeting of that group is later this
7 month and that is also valuable information, that I am sure
8 DTSC will be using and we will be continuing to work closely
9 with them and advise you as soon as we know what direction
10 they go. And that concludes my report today.

11 Chair Mulé - Great, Ted. Thanks for that update.
12 We appreciate it. Any questions? With that, let us move
13 into our agenda. Again, I would like to note that Board
14 Items 6, 7 and 8, and that would be Committee Items G, H and
15 I, will be heard at the full Board meeting next Tuesday, May
16 19th. So with that, Ted, let us move right into Board Agenda
17 Item 1.

18 **Item 1. Consideration of A New Full Solid Waste Facilities**
19 **Permit (Compostable Materials and Handling Facility) For**
20 **Wood Industries Company, Tulare County**

21 Mr. Rauh - Thank you, Chair Mulé. Agenda Item 1,
22 Committee Item B, is consideration of a new full solid
23 wastes facilities permit for compostable materials on
24 handling activities for Wood Industries Company of Tulare
25 County. Staff recommends the Board concur with the issuance

1 of the proposed permit, and here to present the item to you
2 today is David Otsubo. David?

3 Mr. Otsubo - Good afternoon, Madam Chair and Board
4 members. Wood Industries is a composting facility located
5 in Unincorporated Tulare County, near the City of Visalia.
6 The operator is a wood industries company and the owner's
7 name is Edinick (phonetic) Incorporated. Although this
8 facility has operated for some time, this permit action is
9 considered a new permit, as it is the first time the
10 operator will be issued a full solid waste facilities
11 permit. The proposed permit allows for the following
12 changes: a change from a standardized permit to a full
13 Compostable Materials Handling Permit. It will allow for a
14 maximum tonnage of 400 tons per day, and allow for a vehicle
15 limit of 122 vehicles per day. No changes in design or
16 operation from what was occurring under the standardized
17 permit are addressed. The LEA has certified that the
18 application package is complete and correct, and that the
19 reported facility information meets the requirements of
20 California Code of Regulations. The LEA has also determined
21 that the permit is consistent with and is supported by
22 existing California Environmental Quality Act analysis.
23 Board Staff have reviewed the proposed permit and supporting
24 documentation and found them to be acceptable.

25 In conclusion, Board staff recommends Option 1,

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1 that the Board adopt Resolution 2009-63 for Permit No.
2 54AA0028. Staff of the local enforcement agency was not
3 able to be in attendance. I believe you have received an e-
4 mail from Keith Yonkey of the LEA to that effect.
5 Representatives of the Owner-Operator are in the audience
6 and available to answer questions.

7 Chair Mulé - Thank you, David. Do we have any
8 questions for David or for the Operator? I just want to
9 thank the Operator for being here today. We appreciate your
10 coming up. With no questions, do I have a motion?

11 Ms. Brown - I move Resolution 2009-63.

12 Ms. Kuehl - Second.

13 Chair Mulé - It was moved by Chair Brown, seconded
14 by Member Kuehl. Donnell, please call the roll.

15 Ms. Dulco - Brown - Aye; Kuehl - Aye; Chair Mulé -
16 Aye.

17 Chair Mulé - And we will put that item on Consent
18 for the full Board. Ted, let us move to our next item 2.

19 **Item 2. Consideration of a New Full Solid Waste Facilities**
20 **Permit (Disposal Facility) for H.M. Holloway Landfill, Kern**
21 **County.**

22 Mr. Rauh - Thank you, Chair Mulé. The next item
23 is actually Item 2, revised, or Item C on the Committee's
24 Agenda. It is consideration of a new Full Solid Waste
25 Facilities Permit for Disposal Activities, for H.M. Holloway

1 Landfill in Kern County. Staff recommends the Board adopt
2 the California Environmental Quality Act finding and
3 statement of overriding considerations with the exemption of
4 Finding Nine, which we will discuss in our presentation, and
5 adopted by the lead agency, and concur in the issuance of
6 the proposed permit. And with that, I would like to turn to
7 Christy Karl and hopefully she will do a little clearer
8 presentation of the item than my introduction. Thank you.

9 Ms. Karl - Thank you. Good afternoon, Madam Chair
10 and members of the Committee, and our visiting Board member.
11 H.M. Holloway Landfill is an industrial waste disposal
12 facility located in Lost Hills. H.M. Holloway Incorporated
13 is the owner and operator. The proposed permit allows for
14 the following: a maximum disposal tonnage of 2,000 tons per
15 day, the waste types at this facility are limited to de-
16 watered Class A and B quality bio-solids, fly ash, treated
17 auto shredder waste, spent sandblast media, and lime cake, a
18 daily traffic volume of 91 vehicles per day, and establishes
19 a design capacity of 12,600,000 cubic yards. The facility
20 is operating under an exemption and the LEA determined in
21 2005 this exemption was being violated and has been
22 documenting Public Resource Code violations for operating
23 without the proper permit. Concurrence in the proposed
24 permit will correct the violation. Additionally, one of the
25 waste types being allowed by this permit, as Ted already

1 talked about, is treated auto shredder waste, which the
2 operator is aware may be prohibited for disposal, pending a
3 decision by the Department of Toxic Substances Control and
4 expected in June.

5 The LEA has certified the application is complete
6 and correct and the report of fiscal year information meets
7 the requirements of California Code of Regulations. The LEA
8 has also determined the permit is consistent with, and is
9 supported by existing California Environmental Quality Act
10 analysis. Changes to this item that have occurred since
11 being published include the additional of Attachment 5A, a
12 letter from Elliot Block of the Board's legal counsel,
13 regarding the disposal reporting requirements and changes to
14 the permit language in Condition 17M, N and V, specifying
15 the class of bio-solids allowed, and the requirement the
16 Landfill Gas Monitoring Plan will need to be approved, and
17 the Landfill Gas Monitoring System installed prior to the
18 disposal of bio-solids.

19 Board staff have reviewed the proposed permit and
20 supporting documentation and found them to be acceptable. In
21 conclusion, Board staff recommends Option 1, that the Board
22 adopt Resolution 2009-64, for Permit No. 15AA0308. Bill
23 Orillian (phonetic) and Jeffrey Marshall of the Local
24 Enforcement Agency and the operator of H.M. Holloway
25 Incorporated, Ken Hersh, and myself, are available for any

1 questions.

2 Chair Mulé - Thank you, Christy. Do we have any
3 questions for either staff or the operator? Sheila?

4 Ms. Kuehl - I am sorry, maybe I missed it, but in
5 terms of the Finding Nine that we are not going to adopt,
6 could I have more information about that?

7 Ms. Karl - For the Statement of Overriding --

8 Mr. De Bie - Let me start and then maybe we can
9 ask legal counsel to provide additional clarification. Mark
10 De Bie with the Permitting Group here at the Waste
11 Management Board's Permitting LEA Support Services Division.
12 Staff's recommendation is to utilize the Statement of
13 Overriding Consideration that the County developed in
14 support of their approval, which was a Conditional Use
15 Permit --

16 Ms. Kuehl - Right.

17 Mr. De Bie - -- with the exception of that Number
18 9. When staff looked at Number 9, it made references to a
19 mechanism that does not exist; it referred to the operator
20 obtaining from the Board an exemption to the Disposal
21 Counting Mechanism, and there is no definitive exemption
22 kind of mechanism available. As indicated in legal
23 counsel's letter, that did get included as an attachment,
24 there is a mechanism for a jurisdiction to identify a waste
25 stream as potentially requiring to be disposed, and then

1 looking for some case-by-case, situation-by-situation
2 recognition of that and some relaxing of the disposal
3 requirements relative to that particular waste stream. So
4 semantically there were issues, as well as the specific
5 reference to the mechanism. It is my understanding that
6 Kern County has taken advantage of some of the flexibilities
7 allowed through Board policy relative to some of the waste
8 streams, and has taken a step forward in finding sort of a
9 common ground relative to Nine. But that is a lot, sorry.
10 So maybe to narrow it down, basically, Number 9, again,
11 points at a specific mechanism that does not exist; so as it
12 stands --

13 Ms. Kuehl - But what did the LEA think that Number
14 9 was going to accomplish, that related to an adverse
15 impact?

16 Mr. De Bie - It was not the LEA that did this
17 document --

18 Ms. Kuehl - Oh, sorry.

19 Mr. De Bie - It was the Kern County in their Use
20 Permit, so the LEA had not necessarily opined, other than
21 the fact that the LEA sort of accepted this CEQA
22 documentation done by their sister entity in Planning. I
23 think the concern, in looking at some of the conversations,
24 discussions that the Board staff had with the County, the
25 concern was that, for a number of years, well, for the

1 beginning of the life of this facility as a disposal entity,
2 it operated under an exemption from the requirements of a
3 permit. And, therefore, the waste materials going into that
4 site that were disposed were off the radar screen relative
5 to disposal counting. So now it is coming in for a permit;
6 it will clearly be required to report all of the waste going
7 in as disposed, and the county had a concern about what that
8 would do for their overall disposal numbers for the county.
9 So they were hoping that, by pointing to some sort of
10 mechanism, they could move it back off the radar screen.

11 Ms. Kuehl - Okay, thank you.

12 Chair Mulé - Margo.

13 Ms. Brown - Was there any particular waste stream
14 or thing that was of concern? Or is it just the fact that
15 there was a lot of disposal and they are concerned about
16 their --

17 Mr. De Bie - I think it -- my sense is it was all
18 -- it is a narrow spectrum of waste streams anyway, but it
19 was --

20 Ms. Brown - It is.

21 Mr. De Bie - -- all of the waste streams. I do
22 not think they identified one or another.

23 Ms. Brown - The bio-solids and auto shredder waste
24 were the ones that I was curious, whether it was one of
25 those or -- just the diversion goal.

1 Mr. De Bie - I think it was over-arching the
2 diversion aspect and not a particular waste stream.

3 Ms. Brown - Okay.

4 Mr. De Bie - Yeah.

5 Chair Mulé - So, Mark, maybe this is a question
6 for our local assistant staff. Have we done any
7 calculations to see what that impact would be if we now
8 start adding up to 2,000 tons a day?

9 Mr. De Bie - I think Elliot had talked with them
10 about that and a lot of it depends. I mean, you know, how
11 much has been going to other sites? How much could be
12 diverted? There are a lot of unknowns that would really
13 factor in. So I do not know if we got to a point where we
14 had a couple of highs and lows, but --

15 Mr. Block - And I am speaking in a sense on behalf
16 of -- Howard and Kara are both not here today, they are out
17 of town. We have had some discussions specifically with the
18 County, the LEA, and the operator about this, as indicated
19 in the letter that is an attachment. We will not physically
20 do the adjustment until after the fact; but in discussions
21 with them about the waste streams and the conditions and
22 looking at conditions placed on the facility by other state
23 agencies, local agencies, our staff has a comfort level, the
24 operator and the county have a comfort level that if the
25 waste streams that are coming in are as described, and as

1 expected, we will be able to do that adjustment for them so
2 that it will not adversely affect the jurisdictions that are
3 not doing anything different than they were doing before,
4 and it is just the fact that it now has a permit. And that
5 is the over-arching purpose of when we do disposal
6 adjustments.

7 Chair Mulé - Right.

8 Mr. Block - The jurisdiction is not doing anything
9 different in terms of what they are doing; they are not
10 changing their diversion programs, it is just simply the
11 status of the facility that changes, and that is when we
12 make those adjustments. So the county has indicated they
13 have a comfort level, our local assistant staff has looked
14 at it and they have a comfort level, so assuming everything
15 is going to occur as described, this should be adjusted out
16 and it would not be impacting their diversion rates.

17 Chair Mulé - Okay. And then, on the compliance
18 history, on the first page of the item, Mark, I am assuming
19 that these violations are because they did not have a
20 permit. Is that correct?

21 Mr. De Bie - Yes. The situation sort of evolved
22 over a number of years relative to clarification of what the
23 site started off as, and how it sort of evolved and grew
24 over time. So at some point, I think there was common
25 agreement between Board staff, the LEA, and eventually the

1 operator that that exemption was not the appropriate
2 mechanism to utilize, to oversee the site as it had grown,
3 and certainly would not be appropriate relative to the plans
4 the operator was proposing to take place into the future.
5 And so at that point in time, the LEA started to document
6 the fact that the facility needed a permit, so much of the
7 citations relative to significant change in the permit was a
8 reflection of the fact that the site had outgrown its
9 exemption and needed a permit. The operator was very
10 proactive in working with the LEA to put the elements in
11 place so that they could get that permit, but it ended up
12 requiring them to adjust their land use, which required
13 CEQA, which ended up being in the EIR, which took a number
14 of -- I think over a year, if not more, to do. And then the
15 permitting process picked up after that. So there were a
16 number of years where the facility was operating under the
17 exemption, which had been appropriate at the beginning, but
18 then again the LEA noted that it was not the appropriate
19 mechanism at a certain point, in terms of volume and types
20 of waste, and started noting the violations relative to
21 needing a permit.

22 Chair Mulé - Okay, any other questions? I do
23 notice that the resolution does include -- in the Statement
24 of Overriding Considerations, it does include Number 9. So
25 a legal question here: if we move the resolution forward

1 minus Number 9 on page 3, the resolution, could we do that?
2 Or do we need to amend it and bring it back to the full
3 Board?

4 Mr. [Unidentified Speaker] - Madam Chair, you can
5 strike it from the dais.

6 Chair Mulé - Okay, and we can move Resolution
7 2009-64, striking on page 3, Number 9 of the SOC.

8 Ms. Brown - Do we need to have a separate motion?
9 I move that we eliminate Number 9 from the resolution.

10 Mr. [Unidentified Speaker] - You can do it in a
11 separate motion or in a single motion. I actually thought
12 there was language in here that -- and Mark is going to
13 point it out to me.

14 Chair Mulé - Okay.

15 Mr. [Unidentified Speaker] - Madam Chair?

16 Chair Mulé - Yes.

17 Mr. [Unidentified Speaker] - Mark has pointed out,
18 after the list on Page 3 of the resolution --

19 Chair Mulé - Oh, here it is, right. I see it.

20 Mr. [Unidentified Speaker] - Okay.

21 Chair Mulé - Okay, but, yeah, and the agenda item
22 is -- okay.

23 Mr. De Bie - Sorry. Just to be clear of the way
24 we wrote the resolution --

25 Chair Mulé - Yeah, I am a little confused, right.

1 Mr. De Bie - -- was to first indicate what the
2 Board of Supervisors had indicated --

3 Chair Mulé - Right.

4 Mr. De Bie - -- and then there was a "WHEREAS,
5 FOLLOWING" thing --

6 Chair Mulé - Right. There it is, right with the
7 exception.

8 Mr. De Bie - -- it is that with the exclusion --

9 Chair Mulé - Bottom of page 3, got it.

10 Mr. De Bie - -- of 9. Yeah.

11 Ms. Kuehl - Also, we just adopted Resolution 2009-
12 64 for Item 1, so shouldn't this be a different number? Oh,
13 it was 63 for Item 1. Oh, sorry. I had it wrong, then.

14 Chair Mulé - So we do need a motion to adopt
15 Resolution 2009-64.

16 Ms. Brown - I move Resolution 2009-64.

17 Chair Mulé - Thank you. Second?

18 Ms. Kuehl - Second.

19 Chair Mulé - Okay, we had a motion by Chair Brown,
20 Seconded by Member Kuehl. We can substitute the previous
21 roll, and we will put this item on Consent for the full
22 Board next week, as well. Thank you, Mark. Thank you,
23 Christy, and thank you all for being here. All right, let
24 us move to Item 3.

25 **Item 3. Consideration of A Revised Full Solid Waste**

1 **Facilities Permit (Transfer/Processing Facility) For The**
2 **Enertech Environmental California LLC, San Bernardino**
3 **County.**

4 Mr. Rauh - Yes. Thank you, Chair Mulé. Item 3,
5 Committee Item D, is consideration of a Revised Full Solid
6 Waste Facilities Permit for transfer and processing
7 operations for the Enertech Environmental facility located
8 in San Bernardino County. Staff recommends the Board concur
9 in the issuance of the proposed permit. Here to make the
10 presentation is Sue Markie.

11 Ms. Markie - Good afternoon, Madam Chair,
12 Committee, and Board members. Enertech Environmental
13 California, LLC operates a bio-solid processing facility
14 located in the City of Rialto, San Bernardino County. The
15 land is leased from the City of Rialto Economic Development.
16 The proposed Solid Waste Facilities Permit allows for the
17 following changes: a tonnage increase from 860 tons per day
18 to a maximum receipt of 1,050 tons per day; an increase in
19 traffic volume from 66 vehicles per day to 83 vehicles per
20 day; an increase in the design capacity from 1,350 wet tons
21 per day to 1,650 wet tons per day.

22 The LEA has certified that the application package
23 is complete and correct and that the Report of Facility
24 Information meets the requirements of the California Code of
25 Regulations. The LEA has also determined that the permit is

1 consistent with and is supported by existing California
2 Environmental Quality Act analysis. An edit is needed to
3 the published agenda item on page 3 in the Background
4 Section 1, line 9. The maximum number of total number of
5 truck deliveries from sources outside of the City of Rialto
6 is 38, not 40. The agenda item will be revised to reflect
7 this change. Board staff have reviewed the proposed permit
8 and supporting documentation and found them to be
9 acceptable. Board staff recommends Option 1, that the Board
10 adopt Resolution 2009-65 for Solid Waste Facilities Permit
11 No. 36-AA-0446. John Reed and Paula Harold of the Local
12 Enforcement Agency, the operator of Enertech, and myself are
13 available to answer any questions you may have. Also, the
14 operator has a short PowerPoint presentation if time is
15 available. Thank you.

16 Chair Mulé - With the Committee's indulgence, we
17 can -- we are ready to hear the presentation from the
18 operator. That is fine.

19 Mr. Reed - Good afternoon, Chair Mulé and the
20 Board. I am not sure if this is going to work right. Ms.
21 Brown and Ms. Mulé, you may recall when we came before you a
22 couple years ago. We are now in start-up and, as part of
23 the start-up, we have been learning that we have a little
24 bit more capacity in a couple of different areas, new
25 technology and lots of moving parts. So once we started

1 learning that, we decided we would go ahead and get the
2 permit revised in order to reflect those capabilities, which
3 are still not perfectly certain, but seem to be moving in
4 the right direction. So I do not know if you -- do you have
5 that in front of you so you can see things? Okay, so my
6 laser pointer will not work very well, but that is the
7 process. What we are talking about is the different
8 component parts here, the bio-solids receiving. We have
9 equipment that can receive the material at a fairly high
10 rate, so that we can have trucks not be idling on site, so
11 that when we have surges from some of our clients who do not
12 ship bio-solids on Sundays, or are limited to Saturdays, or
13 they may have some other outage, and so they bring in a lot
14 more on Monday or Friday to get ready. So we want to have
15 the capacity to deal with that on a permit basis, as well as
16 a physical basis. To tolerate that, we also need to have
17 storage, so our storage silos, we just wanted to verify the
18 volume of the silo and how much they could support, and
19 nothing really is a major change, but we also want to make
20 sure that all of our language complies very tightly with
21 your regulatory language, so we just tightened that up a
22 bit. The SlurryCarb process itself, we found that our
23 heaters in the reactor have a little bit more flow rate than
24 we had expected due to the viscosity of the material after
25 being treated is even lower than we had hoped, which is a

1 good thing to hear. Also, our customers have changed their
2 plans, and so instead of having some material at 32 percent
3 solids, and 28 percent solids, its average is going to go
4 down to something like 23 percent solids, which means that
5 we have more wet material coming in, so we can push that
6 through faster. So all those changes, again, kind of change
7 every day or two, but that is what our capacity might look
8 like now. I am happy to stop and talk about this a lot
9 more, but I think you just want the kind of high points
10 here.

11 After we treat it with the temperature, then it is
12 easy to dewater with a centrifuge, which saves the energy of
13 drying operations, and that is the equipment up there;
14 again, just sizing. And the dryer we had, we determined
15 that we needed to put in a larger dryer because the vendor
16 of the dryer just has you know, sizes A through E, and we
17 need something between D and E, so we had to get E, so it is
18 bigger, has a little extra capacity in there, so we would
19 like to utilize that capacity. Once we get everything
20 working, which is hopefully in the near -- and that is
21 really it, very simple. I am here to answer any questions,
22 of course.

23 Chair Mulé - Thank you. Thank you for being here.
24 Any questions?

25 Ms. Brown - You answered my question. Thank you.

1 I was curious as to why, you know, it did not appear that
2 you were bumping capacity with the permit that you had, and
3 you were coming back so quickly to revise your permit, and
4 what your experience was. But thank you for the update.

5 Mr. Reed - Okay. You are welcome.

6 Chair Mulé - Thank you. Keep moving forward on
7 this project. Very interesting. Do we have a motion?

8 Ms. Brown - Move Resolution 2009-65.

9 Ms. Kuehl - Second.

10 Chair Mulé - It was moved by Chair Brown, seconded
11 by Board member Kuehl. We will substitute the previous roll
12 and we will put that item on Consent with the change
13 recorded by Susan on page 3-3. Thank you. Thanks, Ted.

14 **Item 4. Consideration of Contractor For Statewide Program**
15 **Environmental Impact Report For Anaerobic Digestion**
16 **Facilities Contract (Integrated Waste Management Account, FY**
17 **2008/09)**

18 Mr. Rauh - Yes. Thank you, Chair Mulé. Agenda
19 Item 4, or Item E on the Committee's Agenda is a request
20 that the Board consider and approve ESA as the contractor to
21 develop a Statewide Program Environmental Impact Report for
22 Anaerobic Digestion Facilities. The Board has allocated
23 \$250,000 for this activity and we are prepared to recommend
24 that you let a contract to that amount. Here to present the
25 item is Ken Decio. Mr. Decio?

1 Chair Mulé - Hi, Ken.

2 Mr. Decio - Good afternoon, Madam Chair, Committee
3 members, Board members. Again, I am Ken Decio with the
4 Permitting and LEA Support Division and, like Ted said, the
5 purpose of this item today is to consider and approve ESA as
6 the contractor to develop a statewide Program Environmental
7 Impact Report for Anaerobic Digestion Facilities. To give
8 just a little background, the goal of this contract is to
9 prepare and circulate a Program EIR in compliance with the
10 California Environmental Quality Act, and what we are hoping
11 this will do is assist the citing of new and expansion of
12 existing anaerobic digestion facilities throughout the
13 state. We are hoping that this Program EIR will help
14 identify potential environmental impacts of anaerobic
15 digestion facilities such as water and air quality impacts,
16 noise, traffic, greenhouse gas emissions, and then come up
17 with some potential mitigation measures for those impacts to
18 comply with CEQA. The Program EIR, we are hoping, will also
19 reduce the need for duplicative review of policy
20 considerations related to anaerobic digestion facilities and
21 really, in the end, help local agencies cite these
22 facilities. We will kind of have a checklist and they will
23 have a lot of information so they do not have to start from
24 scratch. That is really why we are trying to do this is to
25 sort of provide a roadmap for them in citing these

1 facilities. And we also feel that this supports the
2 Organics Roadmap and Strategic Directive 6.1, which we are
3 trying to reduce the amount of organics going into landfills
4 by 50 percent by the year 2020.

5 The Board approved the contract allocation for
6 \$250,000 in January, we came back with a Scope of Work in
7 February, and the Board approved that. And so after the
8 approval of the Scope of Work, then we issued an RFQ Request
9 for qualifications and we held a Proposers Conference on
10 March 3rd at CalEPA where we had nine attendees in person and
11 by phone and responded to their questions at that event.
12 And then we also responded in consultation with the legal
13 office to written questions on the RFQ by the April 2nd, 2009
14 deadline.

15 We received two Statement of Qualifications by the
16 April 21st deadline, and then the Selection Committee then
17 scored the eligible SOQs, and both firms scored about 70
18 percent and they were invited back for interviews, and then
19 the Selection Committee then interviewed both firms and ESA
20 ranked the highest, and so we then got together with them
21 the next day to negotiate the fees, went over each Scope of
22 Work item line by line on the fees, and we decided that
23 these were fair and reasonable items for the \$250,000. We
24 also have Paul Miller from ESA here to answer any questions
25 if you have anything on the proposal. And, as Ted said, we

1 recommend that the Board approve ESA as the contractor to
2 develop a statewide Program EIR for anaerobic digestion
3 facilities.

4 Chair Mulé - Thank you, Ken. Questions for staff
5 or for the proposer? Sheila?

6 Ms. Kuehl - I guess I got the name of the proposed
7 contractor, I think, late last week. And, Madam Chair, I
8 would feel more comfortable, without saying anything
9 negative, of course, in having, I think, another week to
10 consider because, as the Board approves the granting of even
11 such a small contract as a quarter of a million dollars, I
12 like to know more about the company and their expertise, and
13 have a little more time to kind of understand how they came
14 out sort of on this recommendation. You said both the firms
15 had sent statements of qualifications, scored above 70
16 percent, and therefore they were interviewed, and on the
17 basis of the interviews, ESA was selected. But that does
18 not really tell me very much about what the content more or
19 less in interviews is, how does that distinguish one company
20 from another, you know, I am sure everything is open and
21 above board. But since we are the ones finally tasked with
22 saying yes or no, I feel like I would like to know a little
23 more before I say yes. I think this is true of the next
24 agenda item, as well.

25 Chair Mulé - Right. And I see no problem with

1 deferring this to the full Board because these will be
2 considered Fiscal Consent Items, which the full Board will
3 need to vote on anyway. So I have no problem with moving
4 this forward and giving all of us a little bit more time to
5 further research this firm, and have a better understanding
6 of the specifics of the process. I think that is --

7 Ms. Kuehl - But if I may, Madam Chair, I would
8 like to ask now, if I might --

9 Chair Mulé - Yeah, absolutely.

10 Ms. Kuehl - What happens in the interview --

11 Chair Mulé - Right.

12 Ms. Kuehl - -- that helps to distinguish one
13 company from another in this matter?

14 Mr. De Bie - The interview basically consists of
15 the potential contractor presenting their qualifications as
16 outlined in their submittal, and there is a Q and A period
17 after that presentation. In this particular case, it was a
18 Statement of Qualification, to get the terms right, so it is
19 a little different than a concrete proposal in terms of, you
20 know, outlining the budget and all of that, we are looking
21 for the best qualified --

22 Ms. Kuehl - Right, but that was pretty much in
23 their Statement of Qualifications --

24 Mr. De Bie - Right.

25 Ms. Kuehl - -- and both of them were then called

1 for interviews.

2 Mr. De Bie - Correct.

3 Ms. Kuehl - I was just interested in what is it in
4 an interview that helps those interviewing, which they must
5 make a decision, what is the aspect of the qualifications in
6 this case that would help distinguish them from the other
7 company who is not named?

8 Mr. De Bie - Right. The criteria used to evaluate
9 both the written submittal and then the interview are part
10 of the request for qualification, and so there is the sort
11 of criteria outlined and it basically speaks to the
12 experience of the staff in the firm, as well as past
13 projects and examples of those, whether or not they have
14 sort of the administrative support to do it, you know, those
15 various items because, again, we are looking at
16 qualifications.

17 Ms. Kuehl - The original sorting out of the two of
18 them is really sort of a checklist.

19 Mr. De Bie - Right, I think in my sense --

20 Ms. Kuehl - Given their Statement of
21 Qualifications, do they have these minimums; and if they
22 meet the minimums, then they get an interview?

23 Mr. De Bie - That is correct. You know, I think
24 the phasing approach is, if you get 10 submittals, it is a
25 way to get it down to the top three, and then the top three

1 qualify for interview. In this case, we had two submittals,
2 both very well qualified, over 70 percent, so they just
3 rolled -- both of them rolled into the interview. But in
4 the case that there were more than that, the initial scoring
5 is a way to determine which ones would qualify --

6 Ms. Kuehl - So are you reluctant, for any reason,
7 to say what it was that distinguished the company that was
8 chosen from the company that was not chosen?

9 Mr. De Bie - That is difficult for me to say.
10 There were three members on the panel, I was one, and so I
11 can only speak for my perspective. Both the package and the
12 interview were scored independently. It was not done by
13 consensus, they were independent scores; and then those
14 scores were submitted to the Contracts Office to total and
15 make the final determination. So I could share my personal
16 perspective from what I looked at, by I was only one of
17 three.

18 Ms. Kuehl - That is all right, with the Chair. I
19 would just be curious. I mean, for all I know, it is
20 somebody's cousin. And I know in this case, it is not; but,
21 you know, if I am going to say yes to something and a year
22 and a half later, the Bee is going to write that I did not
23 know what the hell I was doing, I would rather know what the
24 heck I am doing.

25 Ms. Brown - They already wrote that story about

1 each of us, individually, so...

2 Mr. De Bie - That was "the Bee," not "De Bie,"
3 right, because I would never write anything like that.

4 Commissioner Laird - No, you would actually know
5 what you were talking about.

6 Mr. De Bie - Thank you. I think from my point of
7 view only, both firms were immensely qualified. It was very
8 difficult to make a decision and I think it just came down
9 to a one or two point differential. I think for me, again,
10 only me, was sort of the general approach in terms of who
11 they were bringing in on the team. I think ESA demonstrated
12 through their team that they had looked for resources that
13 had a varied amount of experience, from lots of different
14 sectors. The other proposal seemed equally qualified in
15 terms of experience and knowledge, but maybe a little less
16 expansive. And it really came down to those kinds of
17 subtleties.

18 Ms. Kuehl - Well, I appreciate that. As you might
19 imagine, in 14 years in the Legislature, and then I was a
20 CEO of two organizations, I did some interviewing. And I do
21 understand it. But I simply -- I would like to know more
22 about -- I am very interested in the whole area of anaerobic
23 digestion, and want to understand more and more about, you
24 know, what I am looking at and what we are doing, etc. And
25 so if there is nothing lost by taking a little more time to

1 look at the company, I would just like to understand better,
2 you know, what distinguishes one from another, more or less,
3 and I understand it is a qualitative issue, always, in terms
4 of awarding contracts. What I could find on Google spoke
5 very well of the company, although it is hard to find a
6 company by just three letters because there are 15 companies
7 named that in the universe. But when you get it down to the
8 right company, it looks very reputable. I just wanted to
9 take a little more time to understand it. Thank you, Madam
10 Chair.

11 Chair Mulé - No problem.

12 Ms. Kuehl - I appreciate that, looking at only one
13 of them, it is nice to know what differentiated them. There
14 are obviously familiar faces in here that we know have had
15 years of experience, but it is nice to see that the team has
16 pulled together the expertise necessary to address all of
17 the components of what we are looking for in this EIR. So I
18 am assuming during that interview process, a lot of that was
19 evident, that they had brought in people to address all of
20 our specific program criteria -- maybe that was the scoring
21 differentiation?

22 Mr. De Bie - Yes. I do not want to say that the
23 other contractor was not as qualified, they were, but only
24 one could be recommended, so we had to sort of do that. And
25 I cannot tell you what the other panel members brought to

1 the table. But I think, by seeing the very people bringing
2 in and, then, as each of those team members introduced
3 themselves and sort of talked about their experience, and
4 how that applied to this project, it became clear to me that
5 their thinking was more expansive than, perhaps, the other
6 firm -- and not to say that the other firm did not have a
7 broader view, but they just did not bring it to the table.

8 Ms. Kuehl - Okay, great. Thank you.

9 Chair Mulé - Okay. Thank you. Then we will move
10 this to the full Board for next week. Thank you, Mark.
11 Well, presentation next week? We could just do a very brief
12 -- very brief, as if it were a Fiscal Consent item, so two
13 minutes.

14 Mr. De Bie - All right.

15 Chair Mulé - That will give the other Board
16 members an opportunity for questions, as well. Okay.

17 Mr. De Bie - And if I could indicate, you know, I
18 am available for continued discussion with any Board member
19 --

20 Chair Mulé - That is in between now and next
21 Tuesday.

22 Mr. De Bie - We can identify the other panel
23 members if the Board wants to talk to them.

24 Ms. Kuehl - This really is not a request to
25 second-guess the choice, really. You know, it is a

1 difficult thing where delegation is concerned and there is a
2 great deal of delegation involved in a lot of our issues;
3 but for me, it is just very helpful to know a little more,
4 it was not a challenge about the choice, simply a question
5 of what will I say if someone says, "Why did you choose that
6 company?"

7 Chair Mulé - Good distinction, thank you. Okay,
8 let us move to Item 5.

9 **Item 5. Consideration of Contractor for Technical**
10 **Assistance For Development Of a Model Integrated Waste Tire**
11 **Management Plan For The State of Baja Contract (Tire**
12 **Recycling Management Fund, FYs 2008/09, 2009/10, And**
13 **2010/11).**

14 Mr. Rauh - Thank you. Item 5, Revised, which is
15 Item F on the Committee's Agenda, this item recommends that
16 Connech (phonetic) Incorporated be awarded a contract to
17 perform the Board's approved scope of work in terms of
18 developing for the State of Baja, California, Mexico, a
19 Model Tire Management Plan framework and technical
20 assistance to develop the Waste Tire Management Plan portion
21 of its Integrated Waste Management Plan. The Board
22 previously allocated \$160,000 out of the Tire Fund for this
23 purpose and the proposed contract is for \$159,470.00. Here
24 to present the item is the Contract Manager, Darryl Petker.
25 Darryl?

1 Chair Mulé - Hi, Darryl -- Petker.

2 Mr. Petker - Good morning, Madam Chair and Board
3 members. A little bit about this item. The Board approved
4 the Scope of Work for this to go out in January, and the
5 title was Technical Assistance for Development of a Model
6 Integrated Waste Tire Management Plan for the State of Baja,
7 California, Mexico. This is required in the Five-Year Plan
8 under the Market Development and New Technology Activities
9 for Waste and Used Tires. So a little background on this
10 and how we got here, is Mexico passed early in this century,
11 passed legislation requiring their states to develop an
12 Integrated Waste Management Plan. Part of that will be an
13 Integrated Tire Plan for that. The Five-Year Plan said,
14 "Let's help them out with some of this stuff." So
15 California and Baja, California share a significant portion
16 of the approximately 158 miles along the border between
17 California and Mexico. While Mexico is moving forward with
18 their efforts to manage these tire issues -- and I wanted to
19 say here that I believe they are, from what I have seen --
20 their efforts would benefit by information assistance from
21 California's experience. This item provides help to Baja,
22 California, by developing a Model Tire Management Plan. Let
23 me say that we are not developing it for them, that we are
24 providing them assistance to develop their own, and kind of
25 get them going down the path.

1 Under this agreement, it will include a
2 methodology to develop a plan that will then be brought back
3 to us, and we will approve it before they move on;
4 assistance in the collection review and analysis of tire
5 information in Baja, California; and assistance to Baja,
6 California authorities to develop this model plan. It is
7 important that we will not prepare the Model Plan -- I will
8 say this several times -- but assist in the development of
9 that plan, or the framework of that plan. That plan will
10 then, and can be, shared with other states, so we do it once
11 and then they can share it with other states in Mexico, and
12 assist in ways to provide stakeholders with a voice in that
13 process.

14 This was a secondary RFP process which basically
15 says it is not only qualifications, and a little bitter, but
16 it is qualifications play a big part in this as to who is
17 qualified, just not the low bid process. We received one
18 respondent to this proposal, and that was Connech (phonetic)
19 Inc. They met the qualifications and they proceeded to the
20 Review Panel. The Review Panel gave them a passing score.
21 Connech (phonetic) Inc. and why, after looking at this
22 stuff, why they have this experience, and I think why they
23 were accepted -- and I was not on the panel, so -- they have
24 experience working with numerous government and private
25 organizations; they have staff that is experienced in

1 binational projects, with one of them being educated in a
2 binational program and degree from University of Tijuana and
3 San Diego State University; they have worked with our staff
4 before and other LEAs and Counties, and came away with some
5 great recommendations where these people would work with
6 them again.

7 So in closing, this is a three-year agreement for
8 \$159,470.00. They were accepted and, therefore, we
9 recommend that you approve this contract. And that is it
10 for my presentation.

11 Chair Mulé - Thank you, Darryl. I just want to
12 put on the record that Board member Kuehl, who just had to
13 step away, had indicated that she has the same questions
14 with this contract as she does the other, so we are going to
15 defer voting on this contract for this week. We will move
16 it over to the full Board. Do you have any questions,
17 Margo?

18 Ms. Brown - [Shakes head]

19 Chair Mulé - I do have some questions on the
20 qualifications of this contractor from the information that
21 I gathered, so I am really pleased that we are going to be
22 moving this vote off to next week because, from the
23 information that I received, I am not -- I guess my question
24 is, is I do not see anywhere in the information that I have
25 the experience that is relevant to developing a Waste Tire

1 Management Plan. I mean, it seems like they have done a lot
2 of work with working with us and others on TDA Projects,
3 Tire Direct Aggregate Projects, Civil Engineering, that kind
4 of -- but I do not see anything that explains their relevant
5 Experience to developing a Waste Tire Management Plan.

6 Mr. Petker - In the qualifications and in the
7 submittal sheet that was submitted to the people who did the
8 panel, I believe some of those qualifications were asked,
9 how did they respond? Do you think they could do this kind
10 of thing? They came off with it. Now, I was not on the
11 panel, so I cannot address that. I believe that there are
12 some things that we can assist them to be able to come up to
13 speed on some of those issues. So...

14 Ms. Van Kekerix - This is Lorraine Van Kekerix.
15 The way the process works, the Contract Manager is not on
16 the Review Panel because that would be a conflict of
17 interest if they were. So, again, all of the information
18 went upstairs to our Contracts Unit, who put together the
19 scores and determined that they were qualified. We can
20 check with those panel members, several of whom are in
21 Southern California, and come back with some answers before
22 the Board meeting if you want to go through your questions;
23 but neither Darryl nor I can answer them today.

24 Ms. Brown - I do not think that is the avenue to
25 get the answer to the question that is before us, the avenue

1 is to go look at their Qualification Statement and their
2 previous work to see if any of it is relevant to producing a
3 Tire Flow Study.

4 Chair Mulé - Right.

5 Ms. Brown - You know, with the state of Oregon, or
6 Wyoming, or -- what did they do there that made them
7 qualified to do this?

8 Chair Mulé - Right. My question is, from the
9 information we received, I have not read anywhere where
10 there experience is relevant to the task at hand, which is
11 to develop a Waste Tire Management Model Plan. So that is
12 what I am looking for and hopefully, again, between now and
13 next Tuesday, you can supply us with that information.

14 Ms. Van Kekerix - Yes. My intent was to gather
15 that information from the people that did the in-depth
16 review.

17 Chair Mulé - Okay. Good. All right, so then we
18 will move this, then, to the full Board next Tuesday. Okay,
19 with that, are there any other items? Does anyone wish to
20 speak to the Committee on any other item? With that, this
21 meeting is adjourned. Thank you.

22 [Adjourned.]

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CERTIFICATE OF REPORTER

I, Susan Palmer, a Certified Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Permitting and Compliance Committee Meeting; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of May, 2009.

Susan Palmer, CERT**0124